

Planning Services

Gateway Determination Report

LGA	Georges River
RPA	Georges River Council
NAME	To amend schedule 1 of the Hurstville Local Environmental Plan 2012 to allow retail premises, specialised retail premises and centre-based child care facilities as additional permitted uses at 84D Roberts Ave, Mortdale
NUMBER	PP_2018_GRIVE_001_00
LEP TO BE AMENDED	Hurstville Local Environmental Plan 2012
ADDRESS	84D Roberts Avenue, Mortdale
DESCRIPTION	Lot 21 DP542051
RECEIVED	11 April 2018
FILE NO.	IRF18/80
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The proposal seeks to amend schedule 1 of the Hurstville Local Environmental Plan 2012 to allow retail premises, specialised retail premises and centre-based child care facilities as additional permitted uses at 84D Roberts Avenue, Mortdale.

When the planning proposal was submitted, 'bulky goods premises' was a Standard Instrument LEP term. Since then, the land-use term 'bulky goods premises' has been replaced by a new term, 'specialised retail premises', to reflect changing business models in the large format retail industry. The planning proposal should be updated to reference the new term.

Site description

The site is approximately 1.12ha in area and is legally described as Lot 21 DP542051 (**Attachment E**). The Mortdale Plaza shopping centre is located on the site and contains a variety of tenancies.

Existing planning controls

The site has the following development controls and zoning (**Attachment F**):

- IN2 Light Industrial zone;
- a maximum building height of 10m; and
- a maximum floor space ratio (FSR) of 1:1.

Development for the purposes of a retail premises, specialised retail premises and centre-based child care facilities is prohibited in the IN2 Light Industrial zone under the Hurstville LEP 2012. Table 1 describes the existing tenancies and land-use types on the site.

Table 1: Current tenancies and land-use types

Shop name	Shop type	Standard Instrument definition	Hurstville LEP 2012 land use
Woolworths	Supermarket	Shop (a type of retail premises)	Prohibited
Diana Sadig Pharmacy	Pharmacy	Shop (a type of retail premises)	Prohibited
The Brasserie Club	Café	Food and drink premises (a type of retail premises)	Prohibited
BWS Liquor	Liquor shop	Shop (a type of retail premises)	Prohibited
Crunch	Fitness club / gymnasium	Recreation facility (indoor)	Permitted with consent

The first four uses in the table have been granted development consent and therefore enjoy existing use rights.

Surrounding area

The land to the north of the site comprises a variety of light industrial uses, such as warehousing and a smash repairer. Hurstville Golf Club and low-density residential developments are located to the south of the site on the opposite side of Roberts Avenue (Figure 1).

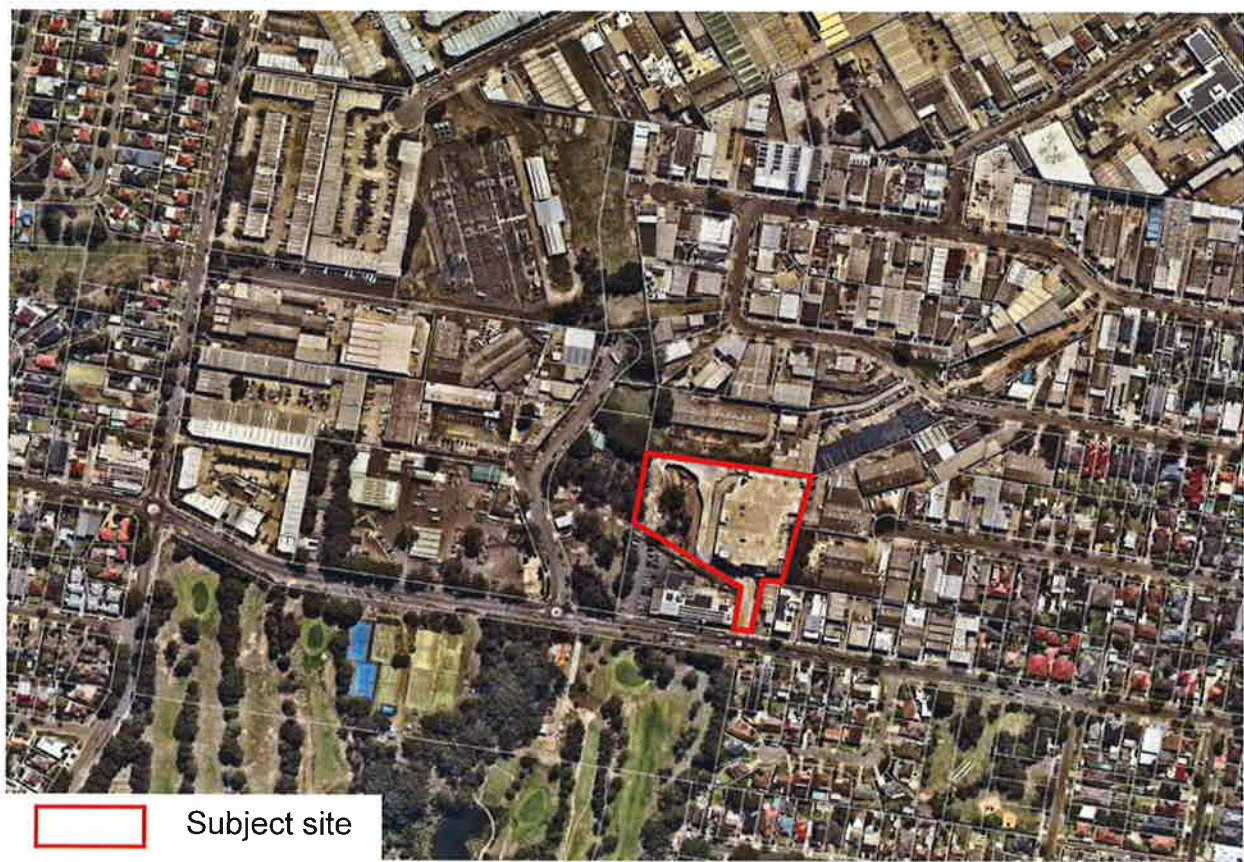


Figure 1: Site context.

The site is generally surrounded by: IN2 Light Industrial-zoned land to the north, east and west; R2 Low Density Residential-zoned land to the east, west and south; and RE1 Public Recreation-zoned land is located further directly south (Figure 2). Current LEP building height and FSR controls are shown in Figures 3 and 4.

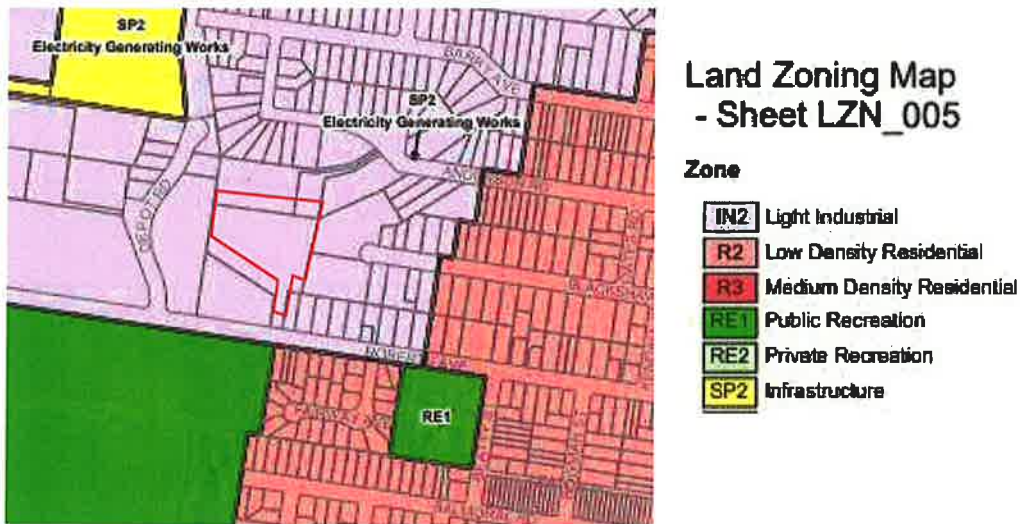


Figure 2: Land zone map (Hurstville LEP 2012).

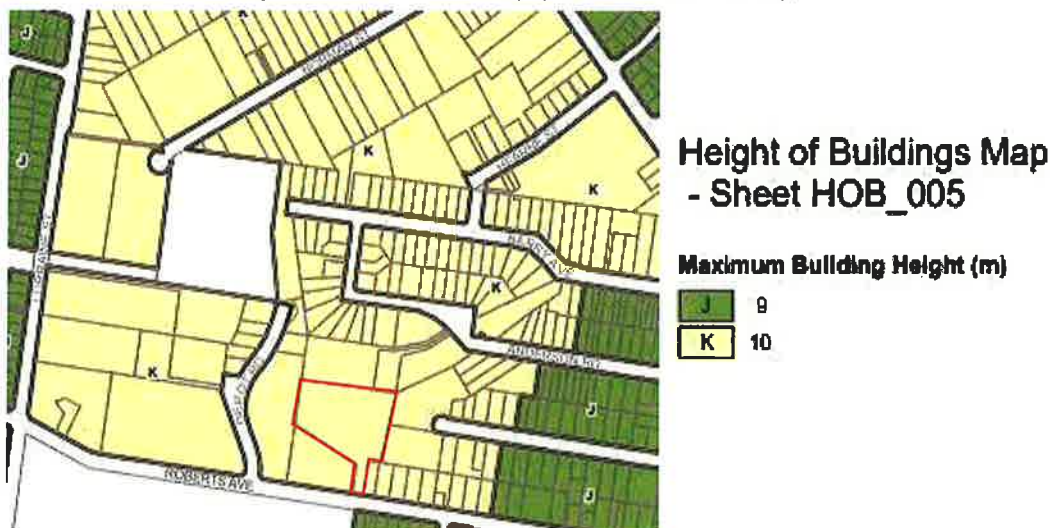


Figure 3: Height of Building Map (Hurstville LEP 2012).

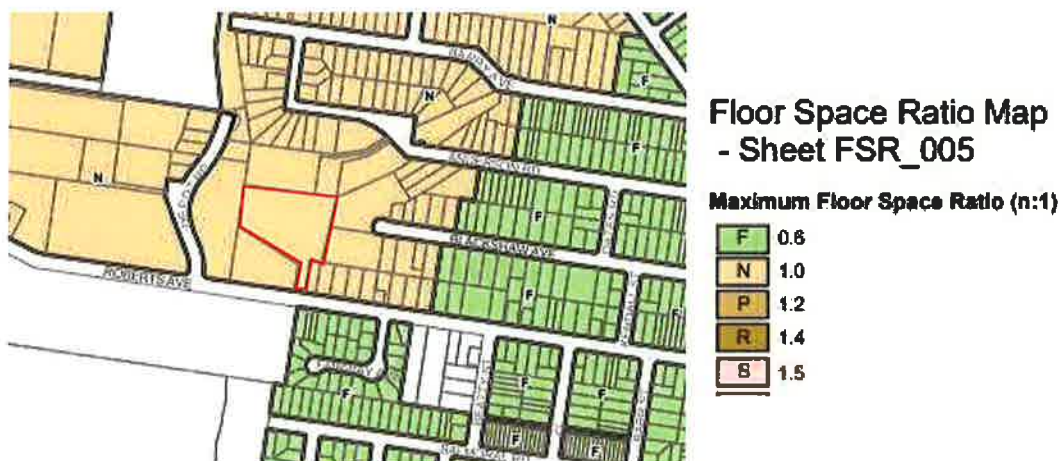


Figure 4: FSR map (Hurstville LEP 2012).

Summary of recommendation

The proposal is generally consistent with the relevant state, regional and local strategic plans as it does not seek to rezone or reduce available industrial-zoned land.

The planning proposal is supported as it:

- is consistent with state, regional and local planning directions seeking to retain and manage industrial and urban services-zoned land;
- will not result in the loss of industrial land; and
- will support the ongoing use of the site for existing approved uses.

PROPOSAL

Objectives or intended outcomes

The objective of the planning proposal is to facilitate the use of the site at 84D Roberts Avenue, Mortdale for the purposes of retail premises, specialised retail premises and centre-based child care facilities.

The objective of the proposal is clear and does not require amendment prior to community consultation.

Explanation of provisions

The proposal seeks to amend Schedule 1 Additional Permitted Uses to include retail premises, bulky goods premises and centre-based child care facilities as a permitted use at 84D Roberts Avenue, Mortdale.

The explanation of provisions is clear and does not require amendment prior to community consultation.

Mapping

The planning proposal is not seeking to amend any maps.

NEED FOR THE PLANNING PROPOSAL

A development application was approved by the former Hurstville City Council in 2009 for a three-storey mixed-use development on the site comprising a supermarket, bulky goods retail, retail, gymnasium and office with basement parking. The site is known as Mortdale Plaza shopping centre, which opened in July 2014. Although internal works for the approved bulky goods/specialised retail premises component is yet to be commenced, the development consent remains valid to permit this land use.

The Hurstville LEP 1994 was in force at the time of the approval and included provisions to enable Council to consent to development for shops or commercial purposes within industrial zones, but only when it was demonstrated that the development could not occur in an existing business centre.

The site is zoned IN2 Light Industrial under the Hurstville LEP 2012, which does not permit most of the site's existing uses, as shown in Table 1 (page 2). The planning proposal seeks to formalise the site's existing uses and broaden the permissible uses on the site under the Hurstville LEP 2012. The approved supermarket and bulky goods premises uses are not identified as Standard Instrument land-use terms and therefore cannot be distinctively identified in the Hurstville LEP 2012.

The proposal does not include a discussion regarding the potential rezoning of the site to B3 Commercial Core. Rezoning the site for commercial use would achieve the intended outcome of the proposal but would not be consistent with the state and district planning directions, which identify the need to retain the existing industrial-zoned land.

The planning proposal states that continuing to maintain permissibility through existing-use rights will not protect the viability of the shopping centre in the event of long transitions between tenancies and does not provide for long-term investment certainty for the centre. It therefore considers an amendment to schedule 1 of the LEP to be the most appropriate option in ensuring the permissibility of the uses.

It is considered that the proposed schedule 1 amendment is the best means of achieving permissibility for the existing uses to permit a centre-based child care facility on the site as a further complimentary use.

Given the importance of retaining and managing industrial lands as reinforced by the Greater Sydney Region Plan and the South District Plan, it is considered that a schedule 1 amendment is the best means of achieving the intended outcome of the planning proposal. The proposal will remove the ambiguity associated with existing-use rights and keep the site available for light industrial uses into the future. The proposal will also provide alternate urban services uses for the site that are currently not permissible.

The planning proposal is supported on the basis there are existing uses that are operating in accordance with a valid development consent. These uses were approved and existing prior to the District Plan. The child care centre would be consistent with other urban services uses provided on-site and across the wider Peakhurst Industrial Precinct. The issuing of this Gateway does not hinder the objectives or the ongoing implementation of the District Plan.

STRATEGIC ASSESSMENT

State

Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission released the Greater Sydney Region Plan, which aims to coordinate and manage Sydney's growth. The plan contains objectives for the region over the next 40 years and informs the actions and directions of the district plans.

The planning proposal provides an assessment against the draft Greater Sydney Region Plan as it was submitted to Council prior to the finalisation of the plan. It is recommended that prior to community consultation, the proposal be updated to address the endorsed final version of the plan.

Of relevance to this proposal is Objective 23: Industrial and urban services land is planned, retained and managed. This objective seeks to retain, grow and enhance industrial and urban services land while reflecting the needs of the region and its local context.

The plan notes the need to provide land for a wide range of businesses that support the city's productivity and integrated economy. Objective 23 notes that all existing industrial and urban services land should be safeguarded from competing pressures, especially residential and mixed-use zones. These industrial lands are required for economic and employment purposes, and therefore the number of jobs should not be the primary objective of this land but a mix of economic outcomes that support the city and population.

It is considered that the proposal is consistent with the plan as it:

- does not seek to rezone industrial land;
- does not reduce the availability of existing industrial land;

- permits existing approved uses on the site; and
- provides the opportunity for more diverse employment uses on-site.

District

South District Plan

The Greater Sydney Commission released the South District Plan on 18 March 2018. The plan guides the growth of the district while seeking to improve the district's social, economic and environmental assets. The plan contains priorities aimed at guiding the liveability, productivity and sustainability of the district.

The planning proposal was submitted to Council prior to the finalisation of the plan and provides an assessment against the Draft Revised South District Plan. It is recommended that prior to community consultation, the proposal be updated to address the endorsed final version of the plan.

Of key relevance to the proposal is Planning Priority S10 Retaining and managing industrial and urban services land, which states that councils must retain and manage industrial and urban services land, protecting it from conversion to other land uses.

The proposal does not seek to amend the zoning or development standards applying to the industrial-zoned site. It seeks to manage the existing uses on-site and provide alternative urban services uses to those that are already permitted on-site.

The existing development is recognised as a significant local shopping centre anchored by a major supermarket, which provides essential retail functions for residents and workers. The applicant has stated that the proposed use of a centre-based child care facility will be provided within the existing Mortdale Plaza development. It is considered that the child care centre would be consistent with other urban services uses provided on-site and across the wider Peakhurst Industrial Precinct.

The proposal is consistent with the South District Plan as:

- it does not seek to rezone industrial land;
- it does not result in the reduction of available existing industrial land;
- the site is located at the interface of light industrial, residential and recreational land uses; and
- the additional land uses will promote opportunities for employment diversification and growth.

The Greater Sydney Commission has advised that the planning proposal should be supported on the basis that it involves regularising an existing, approved retail use and allows a child care centre. The Commission has also noted that the planning proposal is not to rezone the land but to allow additional permitted uses. The issuing of this Gateway does not hinder the objectives or the ongoing implementation of the District Plan. Any future planning proposals to schedule additional uses on employment land will only be considered where it can be demonstrated that they are consistent with the District Plan.

Local

Draft Georges River Employment Lands Study 2017

The draft Georges River Employment Lands Study provides Council with a strategic direction for employment lands across the Georges River local government area. The subject site is located within the Peakhurst Industrial Precinct, which has been considered by the study.

The study identifies the provision of a large supermarket (Woolworths) on the subject site as one of the strengths of the precinct. It notes that the supermarket provides amenity to the area. Mortdale Plaza is identified as providing for a range of retail uses and supporting the community and surrounding business operators.

The study does not provide specific direction in terms of the subject site. However, it makes the following recommendations regarding the Peakhurst Industrial Precinct:

- market the Peakhurst Industrial Precinct as the main service industry and service trade location within the wider area;
- rezone the Peakhurst Industrial Precinct to IN1 General Industrial to provide greater flexibility/protection for industrial uses; and
- increase the range of uses permitted with consent in industrial zones to enable uses that service the needs of employees.

The planning proposal is consistent with the desired direction for the precinct as identified in the draft study as it will promote employment diversification and growth.

Hurstville Community Strategic Plan 2025 (2015)

The planning proposal is consistent with the Hurstville Community Strategic Plan 2025, particularly the actions and objectives that relate to social and cultural development and economic prosperity as outlined below:

- A2 Community Facilities – Building and maintaining community facilities and services: The proposal will allow for the provision of a centre-based child care facility on the site. This will contribute to meeting the community's growing needs for child care facilities and assist in satisfying the objectives of this strategic plan; and
- C6 Supporting and attracting local businesses – Supporting and attracting local businesses and encouraging local employment: The proposal will protect existing local employment opportunities within the shopping centre while encouraging employment mix and growth.

The planning proposal is consistent with the strategic plan as it will provide more community facilities close to existing residential areas and the opportunity for employment growth.

Kogarah Local Environmental Plan 2012

The Kogarah LEP 2012 permits centre-based child care facilities in IN2 Light Industrial-zoned lands. It is considered that this use supports and encourages a range of local urban services that provide for the needs of the community. In the process of harmonising the Kogarah and Hurstville LEPs, it is considered that centre-based child care facilities may be appropriately located within IN2 Light Industrial zones provided the existing industrial activities are not compromised.

The absence of heavy and offensive industries within the light industrial zones in the Georges River LGA allows long-term planning that encourages a variety of urban services, such as child care facilities, to meet the needs of communities without disrupting existing light industrial uses.

The inclusion of these uses on-site is consistent with the Kogarah LEP 2012.

Section 9.1 Ministerial Directions

The proposal is considered consistent with all relevant section 9.1 Ministerial Directions except for the following:

1.1 Business and Industrial Zones

The objective of this Direction is to encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the vitality of identified strategic centres.

A proposal may be inconsistent with this Direction if it is:

- justified by a strategy that considers the site; or
- consistent with regional or state government strategy; or
- of minor significance.

The proposal states it is consistent with this Direction as it protects the existing employment opportunities and expands the variety of employment opportunities within the area. The proposal is not seeking to amend the site's zoning and will not result in the reduction of existing available industrial floor space.

The site operates as a retail premises and has been approved for bulky goods uses. The applicant has advised that the proposed centre-based child care facility is intended to be located within the Mortdale Plaza shopping centre. The proposed use of the site for specialised retail premises and child care facilities is consistent with the use of the Peakhurst Industrial Precinct for other alternative urban services uses.

The approved supermarket and bulky goods uses are not identified as Standard Instrument land-use terms and cannot be distinctively identified in the Hurstville LEP 2012. There have been no changes in circumstances, such as investment in new infrastructure, near the subject site since the preparation of the LEP.

Rezoning the site to a commercial zoning is not considered to be consistent with the state and district planning directions, which identify the need to retain the industrial zoning, and local planning directions, which seek to protect and maintain industrial-zoned precincts.

The proposal's inconsistency with this Direction is justified by the terms of the Direction given the proposal:

- will not result in a reduction of available industrial land;
- does not seek to rezone or amend the development controls applying to the site; and
- will remove the ambiguity associated with relying on existing-use rights for businesses.

State environmental planning policies (SEPPs)

The planning proposal is consistent with all applicable SEPPs.

SEPP No 55 – Remediation of Land

The planning proposal only seeks to permit land uses and not redevelopment of the site. The proposal will not result in any activities that would be likely to expose humans or the environment to risks of contamination and it is therefore consistent with this SEPP. Matters regarding potential soil contamination could be addressed as part of any future development application.

SEPP (Educational Establishments and Child Care Facilities) 2017

This planning proposal intends to permit centre-based child care facilities on the subject site and is consistent with this SEPP. Any future child care development will be required to comply with this SEPP and the Child Care Planning Guideline.

Part 3 of the SEPP sets out additional controls and matters to consider for child care developments in industrial zones. These matters seek to ensure there are no adverse impacts on the child care facility or surrounding land uses, including those related to health, safety or planning matters. These matters will need to be carefully considered at the development application stage.

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

The subject site is located within the Georges River Catchment. The planning proposal does not affect the way the Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment applies to the site. It is considered that the proposal is consistent with this plan.

SITE-SPECIFIC ASSESSMENT

Social

The proposal will have positive social outcomes as it enhances:

- the social infrastructure of Mortdale and meets the needs of residents through the provision of a centre-based child care facility; and
- the liveability and vibrancy of Mortdale.

Environmental

The information submitted by Council and the proponent indicates that there are no known significant environmental values, resources or hazards that would preclude redevelopment of the site.

Economic

The proposal will have positive economic effects as it contributes to:

- the protection of an important local shopping centre by ensuring it remains economically viable in a manner consistent with the existing approval for the site;
- the protection of important local services, including a supermarket, close to a residential area; and
- the increase of permitted urban services uses that can be undertaken on-site.

CONSULTATION

Community

The planning proposal states that public consultation will be undertaken in accordance with the Gateway determination. An exhibition period of 28 days is considered acceptable.

Agencies

Given the administrative nature of the proposal, no consultation with government agencies is recommended.

TIME FRAME

Council recommends a project timeline of eight months for completion, starting in February 2018. Given the nature of the planning proposal, a project timeline of nine months from the date of the Gateway determination is considered adequate.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority for the proposal. Delegation is considered appropriate as the matter is of local significance.

CONCLUSION

The planning proposal is supported to proceed as it:

- is generally consistent with the relevant state, regional and local directions and objectives relating to the protection and management of land zoned for industrial and urban services purposes;
- is considered that a schedule 1 amendment is the best means of achieving the intended outcome of the proposal;
- permits existing approved uses on the site;
- does not seek to rezone or amend the development controls applying to the site; and
- will increase the range of urban services uses permitted with consent on the site.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Direction 1.1 Business and Industrial Zones is justified.

It is recommended that the delegate of the Greater Sydney Commission determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to consider the Greater Sydney Region Plan and the South District Plan.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. No consultation is required with public authorities.
4. The time frame for completing the LEP is to be nine months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.



30/10/2018

Laura Locke
Team Leader, Sydney Region East



Amanda Harvey
Director, Sydney Region East, Region
Planning Services

30/10/2018

Contact Officer: Andrew Watkins
Planning Officer, Sydney Region East
Phone: (02) 9274 6558